

From: gary miller
To: Microsoft ATR
Date: 11/21/01 3:53pm
Subject: Microsoft settlement is inadequate

I am greatly disappointed that the Dept of Justice has not put adequate restraints on the behavior of Microsoft, and accepted a very weak settlement that does not protect the interests of the American public. I hope the DOJ will give very close scrutiny to current and future behavior by Microsoft.

I am particularly concerned over the provision in the settlement agreement that requires Microsoft to divulge Windows APIs only to competitors that Microsoft determines have a "valid" business plan. Whether intended or not, one effect of this provision is to handicap the "open source" movement in ever inventing a rival technology that could work well enough with Windows to threaten Microsoft's own monopoly.

Open source has hatched such technologies as the Linux OS and the latest incarnations of Netscape. Yet in their earliest stages, open source technologies rarely have a profitable business plan at all, so Microsoft need not tell them how to make their applications run to best advantage on a Windows machine. Small wonder future Netscapes will appear clumsier than Explorer. Without API disclosure, Microsoft's possibly inferior technologies come out of the gate with a prejudicial ability to integrate more smoothly with the Windows OS, and users will be discouraged from even trying alternative technologies. This element in the federal settlement nips a good portion of future competition in the bud.

At the very minimum, a settlement should require Microsoft to sell an "unbundled" operating system with fully disclosed APIs, so that any third party could write an analog to, for example, the Passport technology, that could work as well with Windows as Microsoft's version.

I personally find Microsoft's past behavior so egregious--and so much unchanged even after the upheld findings of monopoly practices--that I hope the nonconsenting state attorneys general and the EU pursue substantial damages, and, especially, injunctions now against any future such behavior by Microsoft. Surely without suitable injunctions, while damage proceedings drag on Microsoft will only further entrench its current monopoly and extend it to such growing sectors of the American economy as e-commerce and internet computing. Microsoft's ongoing behavior together with its de facto omnipresence on the nation's computer desktops easily threatens to extend its monopolistic practices into new arenas, resulting in higher OS costs to every user and stifling new competitors in ever more fields.

Microsoft's continued march to subsume new technologies (instant messaging, media players, etc, and ABOVE ALL e-commerce in its infancy) into Windows XP, its retention of the right to revert all OEM alternative desktop

settings to Microsoft's own 14 days after purchase, and its continued refusal to admit any past misbehavior whatsoever all demonstrate that more drastic remedies are needed, and sooner rather than later.

I only regret that Microsoft carries such influence in my own state (Washington) that my own attorney general has not joined in the other attorneys' general case.

Sincerely,
Gary Miller
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PS. I would normally write a "real" letter in hopes of carrying more weight than an e-mail message, but understand that public safety concerns make email more reliable these days.

"The greatest obstacle to communication is the
presumption it has already occurred."